

**Statement of Mr. Ignatius Gentile  
President, Department of Homeland Security Council 117  
American Federation of Government Employees**

**before a joint hearing of the**

**U.S. Committee on Government Reform  
Subcommittee on Civil Service and Agency Organization and,  
Subcommittee on Criminal Justice, Drug Policy, and Human Resources**

**U.S. House of Representatives**

**July 23, 2003**

**Madam Chairperson and Members of the Subcommittees:**

My name is Ignatius Gentile and I am President of Department of Homeland Security Council 117 (AFGE). Our union represents over 16,000 legacy Immigration and Naturalization Service Inspectors, Deportation Officers, Special Agents, Adjudications Officers and other former INS employees. Contrary to the myth created during last year's battle over work rules at the Dept. of Homeland Security, our union has never been obstructionist, nor is our contract constraining on the Agency in carrying out its critical mission. In fact, we play an essential role in examining proposals affecting pay, benefits and personnel rules and making sure employee views are clearly understood. After all, it is the employees of this agency that ultimately determine its success or failure.

In FY 2002, the INS inspected almost 70 million air travelers at more than 220 airports designated as Points Of Entry (POE) around the United States and in foreign countries where travelers are inspected prior to arrival in the United States. Those inspections resulted in intercepting approximately 6,900 criminal aliens, 2,700 persons being smuggled into the United States, and more than 18,000 fraudulent travel and identification documents. In total, INS inspectors denied admission to over 208,000 travelers during inspections at air POEs in FY 2002.

We are here today to talk about critically important pay and benefit issues affecting thousands of employees within the Department of Homeland Security (DHS). These issues are important not only because they are "bread and butter" concerns to workers and their families, but also because they have a tremendous affect on employee morale. And one of the best measures of employee morale is the rate of attrition.

**The Attrition Crisis at DHS**

At DHS, the attrition rate for inspectors has reached double digit levels. It is even worse among Border Patrol Agents. The fact is the employees America relies upon as the front-line in the battle against terrorism are leaving the agency in droves. According to data released by the

Immigration and Naturalization Service in 2002, the attrition rate for Immigration Inspectors was 10 percent and expected to rise to 15 percent by the end of the year.

In February of this year, the Office of Inspector General at the Dept. of Justice released a report (03-15) which stated that “in FY 2002 approximately 26 percent of all inspectors at air, land, and sea POEs were newly hired. While the report did not break down how many of these new hires replaced lost personnel, there is no doubt the number is substantial.

Our nation is losing some of its most highly trained and experienced front line inspectors and it forces us to ask the question: what impact is this attrition crisis having on our ability to prevent terrorists from crossing our borders?

The second question that must be asked is: what can we do to stem the job loss among DHS law enforcement personnel. I have some ideas.

### **Federal Law Enforcement Equity Act (H.R. 2442)**

First and foremost, we urge you to take up H.R. 2442, the Federal Law Enforcement Officers Equity Act and bring it to the House Floor for consideration. The enactment of this legislation, which has been introduced with the bipartisan support of Rep. Bob Filner and Rep. John McHugh, will do much to reduce the attrition rate among Immigration Inspectors. Under current law, Immigration Inspectors are treated as second-class citizens. Not only is their pay scale lower than many other federal state and local law enforcement agencies, but they also do not receive federal law enforcement retirement benefits. H.R. 2442 seeks to rectify this injustice by granting these officers the same retirement benefits received by most other federal law enforcement officers.

We commend Rep. Filner for his long-standing support on this issue and thank both he and Rep. McHugh for their recognition that the time for talk on this issue has ended and the time for action has come. We can see no justification for viewing Immigration Inspectors as anything less than law enforcement officers.

Immigration Inspectors are regularly put in harms way which is why they are generally required to carry firearms and must qualify on their usage four times a year. They have the authority to undertake warrantless searches deport illegal aliens. Immigration Inspectors patrol, respond to incidents, arrest and process suspects, administer oaths and take sworn statements. The 1996 Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) included expedited removal provisions which gives Immigration Inspectors the authority to order certain aliens removed under expedited removal proceedings without further hearings or review by an immigration judge. The expedited removal order carries the same penalties as a removal order issued by an immigration judge. Immigration Inspectors also prepare cases for criminal prosecution by United States Attorneys, including cases involving alien smuggling, document fraud, and attempted illegal entry.

An Inspector can arrest criminal or previously deported aliens. In fact, Inspectors must do so in order that they remain in custody. As mandated by Congress and included in the credentials, Inspectors are authorized to act upon the witnessing of felonious acts by anyone.

There is an entire class at the IOBTC regarding possible penalties for an officer failing to act in certain areas.

It has been suggested by some that this legislation is too expensive and therefore should not be adopted. We could not disagree more strongly. To date, no study undertaken on H.R. 2442 has considered the potential savings resulting from reduced training costs. According to the OIG/DOJ report mentioned earlier, the INS invested over \$19 million to train approximately 1,000 new Immigration Inspectors at its Academy in FY 2002. We believe that much of that money could have been saved had H.R. 2442 been in effect, and therefore, should be counted as offsetting savings in any future cost studies of the bill.

Finally, it bears noting that the Bush Administration's first appointee as INS Commissioner, James Ziglar, actively supported law enforcement retirement coverage for Immigration Inspectors – despite internal opposition – because he felt so strongly that it should be provided.

We as a nation, simply cannot afford to lose our most experienced personnel at this time. We need their instincts, their experience, their eyes trained on the thousands of people they inspect every day. We need their dedication, commitment and knowledge. We need to treat these people as the law enforcement officers they are. The enactment of the Law Enforcement Officers Equity Act would be a very important step in that direction.

### **Pay Equity**

Neither pay nor retirement benefits for Immigration Inspectors are not competitive with state and local law enforcement jobs. State and local Police Departments offer a higher starting pay, often in excess of ten thousand dollars a year. State and Local police departments also offer a twenty year retirement program, better health benefits, union recognition, and a collective bargaining agreement. Is it any wonder so many federal law enforcement officers are seeking positions in state and local law enforcement.

### **New DHS Personnel Rules**

Beyond the enactment of H.R. 2242, we believe that most DHS employees are anxiously awaiting the new personnel plan for the Agency.. Uncertainty over collective bargaining, appeals rights and pay reform is having the expected affect on the work force. People are looking around, talking to each other, considering their options. Uncertainty is a breeding ground for attrition. And there is an active, if informal network, among all law enforcement officers at all levels on job vacancies and other opportunities.

It is vital that the new DHS work rules be fair to both agency managers and employees. As a union, we understand that our first priority is to perform effectively and efficiently in our jobs. But in our view, part and parcel of that process is fair treatment by our supervisors. Work rules that provide unchecked power to supervisors and managers is a recipe for disaster. Attrition will skyrocket, morale and enthusiasm for the job will disappear and Americans will be left less safe.

Let us hope the members of the DHS Design Team understand the importance of balance in shaping a new system. If the rules are fair, the Agency wins by maintaining a motivated, committed work force; the employees win by having their basic rights protected and, of course, the American people win by having the most effective front line troops in the battle against terrorism.

### **Adequate Resources for DHS**

Despite significant increases in funding for agencies and programs operated under the Department of Homeland Security, there are activities which apparently are not receiving adequate financial support. According to reports from the field, Immigration Inspectors are being replaced by U.S. Customs Inspectors on the port of entry primary inspection line across the country due to funding constraints. U.S. Customs Inspectors are only permitted to conduct primary immigration inspections on U.S. Citizens Permanent Residents and Canadian citizens. U.S. Customs officers then sit idle while lines of arriving non U.S. citizens swell to the point of overload. This creates additional waiting times for non U.S. citizens

Historically, a mixture of Immigration and Customs Inspectors have staffed the primary inspection lanes. These Officers rely on each other while conducting primary inspections because the rules, regulations and policies surrounding the Immigration and Nationality Act are so complex. Because of this, it is not uncommon to see a Customs Inspector exit the inspections booth and ask an Immigration Inspector for guidance on routine to complex matters of Immigration Law. However the opposite is not generally the case. Staffing primary inspection solely with officers of the Customs Service would greatly reduce the efficiency of the process of primary inspection. Eliminating the Immigration Inspectors would mean that those questions that were answered or dealt with by Immigration Inspectors, would either go unanswered or be sent inside the building for secondary inspection.

The result will be major travel delays, a backlog in secondary inspections and a potential security threat. If Inspectors are under increased pressure to move the lines faster, they could be missing small but important signs of potential terrorists attempting to gain entry into the U.S.

We have heard the intent here is to limit the work of Immigration Inspectors at Ports-of-Entry to secondary inspections, with Customs Inspectors staffing the primary Inspection lanes. This is a bad plan aimed solely at saving money on the Immigration Inspections budget and shifting the costs over to Customs.

A primary inspection program is a well-balanced equation. To have a well-balanced primary inspection you must have the knowledge and skills of both legacy agencies represented. Removing one element of the equation and stating it would have no effect on the overall effectiveness is absurd. By removing the Immigration Inspector, you remove years of developed skills, knowledge and experience. Thank you.